



Paper No. 27

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**OFFICE OF PETITIONS  
ON PETITION**

In re Application of  
Nick Marchesani  
Application No. 09/168,072  
Filed: October 8, 1998  
Attorney Docket No. 2413-101A

This is a decision on the petition under 37 CFR 1.137(b), filed February 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 30, 2001, which set a shortened statutory period for reply of three (3) months. A request for continued examination (RCE) filed on April 30, 2002 is improper since the request was not accompanied by a submission as required by 37 CFR 1.114. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on January 31, 2002.

The above-identified application is being revived solely for purposes of continuity with an RCE.

The Office Finance record shows that the RCE fee was inadvertently charged twice. Therefore, a refund of \$395.00 is being credited to Deposit Account No. 50-1349.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The file is being forwarded Technology Center 3711 for processing of the request for continued examination under 37 CFR 1.114 filed April 30, 2002 and for consideration of the concurrently filed amendment.

*Wan Laymon*  
Wan Laymon

Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy